

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION

**ENCOMPASS HEALTH
REHABILITATION HOSPITAL OF
MIDLAND ODESSA, LLC,
*Plaintiff,***

V.

**XAVIER BECERRA, SECRETARY
OF THE UNITED STATES
DEPARTMENT OF HEALTH AND
HUMAN SERVICES;
*Defendant.***

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MO:22-CV-00237-DC

ORDER

Before the Court is the Report and Recommendation¹ from United States Magistrate Judge Ronald C. Griffin related to Xavier Beccera, Secretary of the United States Department of Health and Human Services' Motion to Dismiss.² In his report and recommendation, Judge Griffin recommends that the Court deny the Secretary's motion. The Secretary timely objected,³ and Encompass Health timely responded.⁴

A party may serve and file specific, written objections to a magistrate judge’s findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court.⁵ When no

¹ EC No. 18.

² ECF No. 16.

³ ECF No. 19

⁴ ECF No. 20.

⁵ 28 U.S.C. § 636(b)(1)(C).

objections are timely filed, a district court can review the magistrate's report and recommendation for clear error.⁶

The Secretary objects under the belief that the Court can adjudicate this case without conducting fact-intensive analysis, contrary to the Magistrate Judge's concluding contention that it cannot. Through this narrow objection, the Secretary re-urges the arguments posed in its motion to dismiss. The Court need not conduct de novo review if objections to a report and recommendation are frivolous, general, or conclusory.⁷ Review for clear error reveals that Magistrate Judge Griffin's report and recommendation is correct and should be adopted.

It is therefore **ORDERED** that the Report and Recommendation is **ADOPTED**.
The Secretary's Motion to Dismiss is **DENIED**.

It is so **ORDERED**.

SIGNED this 8th day of March, 2024.

A handwritten signature in black ink, appearing to read 'David Counts', with a stylized star-like flourish at the end.

DAVID COUNTS
UNITED STATES DISTRICT JUDGE

⁶ See Fed. R. Civ. P. 72 advisory committee's note ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

⁷ See *Battle v. U.S. Parole Com'n*, 834 F.2d 419, 421 (5th Cir. 1987).